

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

SANDPIPER CONDOMINIUM
COUNCIL OF CO-OWNERS, INC.,
Plaintiff

v.

LEXINGTON INSURANCE COMPANY,
Defendant.

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Hon. Nelva Gonzales Ramos
Civil Action No.: 2:18-cv-00414

STIPULATION TO CORRECT MISNOMER AND CASE CAPTION

Plaintiff and Defendant hereby stipulate and agree as follows:

1. Plaintiff was inadvertently misnamed in the petitions in state court and in the case caption in this action. Plaintiff's correct full name is "Sandpiper Condominium Council of Owners, Inc." ("Sandpiper").

2. Plaintiff's First Amended Petition at the time of removal of this case incorrectly named Plaintiff as "Sandpiper Condominium Council of Co-Owners" and described Plaintiff as:

"a Texas corporation domiciled in Nueces County, Texas. All events material to this lawsuit occurred in Nueces County, Texas. Plaintiff sues in all capacities it is authorized to appear, including but not limited to as named insured and payee on a policy of insurance and pursuant to its rights and authority to sue in behalf of its owners pursuant to statute, contract, or condominium documents and regime.... Several months prior to Hurricane Harvey, Defendant issued an insurance policy or policies covering or purporting to cover Plaintiff's property from certain forms of hurricane damage. The policy in effect at the time of these losses purported to insure the property against losses above a deductible amount of \$4.3115 million, up to a limit of over \$27 million. Such policy insured the Plaintiff from building damage, damage to structures, personal property damage, and loss of income... While the policy or policies were in effect, and on or about August 25, 2017, Hurricane Harvey made landfall on Padre Island causing serious damages to many structures. One of the buildings which suffered serious covered damage from the storm was the Sandpiper condominium complex on Padre Island. Plaintiff is the named insured under the above policies and insures the property in behalf of itself and its members, the owners of the building complex, who are also insureds... (*Plaintiff's First Amended Petition and Request for Disclosures*, paragraphs II, V, and VI).

3. When granted leave by the court to file a Third Amended Complaint, Plaintiff corrected the misnomer in the style and body of the Complaint by showing the court that it was the same party but was merely previously misnamed, i.e., “Sandpiper Condominium Council of Owners a/k/a Sandpiper Condominium Council of Co-Owners.”

4. The only conduct, transactions, or occurrences alleged in this case by any of the Plaintiff’s pleadings relate to damage to the Sandpiper Condominiums on Padre/Mustang Island in Corpus Christi, Texas, and the Plaintiff described in all pleadings herein is the owner’s association for such complex and a named insured under the Lexington Insurance Company (hereinafter “Lexington”) insurance policy covering said property when Hurricane Harvey struck the Coastal Bend in August of 2017 (see: *Plaintiffs’ Original Petition and Request for Disclosures*; *Plaintiff’s First Amended Petition and Request for Disclosures*; *Plaintiff’s Second Amended Complaint* [ECF No. 12]; *Plaintiff’s Third Amended Complaint* [ECF No. 29]; *Defendant’s Answer and Affirmative Defenses* [ECF No. 8]; and *Defendant’s Amended Answer* [ECF No. 30]).

5. Defendant Lexington has no objection to correcting the misnomer of the Plaintiff without further motion or procedure and amending the case caption to reflect Plaintiff Sandpiper’s corrected name.

6. Sandpiper and Lexington respectfully request that the Court find that all actions and papers previously attributed to “Sandpiper Condominium Council of Co-Owners” are those of or attributed to the same entity under its correct legal name “Sandpiper Condominium Council of Owners” and that the Court amend the case caption accordingly to read as follows:

SANDPIPER CONDOMINIUM
COUNCIL OF OWNERS, INC.,
Plaintiff,

V.

LEXINGTON INSURANCE COMPANY,
Defendant.

7. Since Lexington has already answered Plaintiff's Third Amended Complaint herein, and since the parties are in agreement that the Plaintiff in this action is and has always been Sandpiper Condominium Council of Owners, previously misnamed, Sandpiper agrees that the Summonses issued as to Lexington by the Court on May 17, 2019 and May 29, 2019 are withdrawn and, having been withdrawn, such Summonses do not require a response by Lexington.

Dated: June 21, 2019

By: /s/ William J. Chriss
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